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(California Attorneys will comply with LR IA 11-2 within 14 days)

Attorneys for Plaintiff
YUGA LABS, INC.

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

YUGA LABS, INC.,

Plaintiff,

v.

RYAN HICKMAN,

Defendant.

Case No.:

**COMPLAINT FOR FALSE DESIGNATION
OF ORIGIN AND CYBERSQUATTING**

DEMAND FOR JURY TRIAL

1 Plaintiff Yuga Labs, Inc. (“Yuga Labs”) for their Complaint against Ryan Hickman
2 (“Hickman” or “Defendant”)) alleges as follows:

3 NATURE OF THE CASE

4 1. Defendant Ryan Hickman is a central part of a business venture designed to
5 explicitly mislead consumers into thinking he and his accomplices’ knockoff non-fungible tokens
6 (“NFTs”) are affiliated, sponsored, or associated with Yuga Labs. To further this scam, Hickman
7 created and commercialized websites and a smart contract to sell the intentionally misleading
8 RR/BAYC NFTs to the average consumer. Hickman and his accomplices used these tools to sell
9 NFTs bearing the same images underlying Yuga Labs’ BAYC NFTs and using Yuga Labs’ same
10 marks on the same marketplaces Yuga Labs’ NFTs are sold, as well as marketplaces where Yuga
11 Labs’ NFTs had not yet been sold. This is textbook trademark infringement and explicitly
12 misleading use of Yuga Labs’ marks.

13 2. Plaintiff Yuga Labs is the creator behind one of the world’s most well-known and
14 successful NFT collections, known as the Bored Ape Yacht Club (a.k.a. “BAYC”). There are only
15 10,000 BAYC NFTs in existence. The BAYC NFTs have earned significant attention from the
16 media for their popularity, including being featured on the cover of *Rolling Stone* magazine.

17 3. In response to the Bored Ape Yacht Club’s popularity, Ryder Ripps, a non-party to
18 this action, started a business venture to sell “RR/BAYC” NFTs, which infringe Yuga Labs’
19 trademarks and use the same art that Yuga Labs uses for its BAYC NFTs. Visually, the
20 RR/BAYC NFTs are identical to the BAYC NFTs, using the same underlying digital images.

21 4. Ripps enlisted Hickman, as well as other non-parties Jeremy Cahen and Thomas
22 Lehman (collectively, “the RR/BAYC Team”), to join his business venture and help him profit off
23 of Yuga Labs’ goodwill and trademarks by flooding the NFT market with their intentionally
24 misleading copycat NFT collection using the original Bored Ape Yacht Club images and calling
25 the NFTs “RR/BAYC” NFTs. Brazenly, the RR/BAYC Team promotes and sells these RR/BAYC
26 NFTs using *the very same trademarks* that Yuga Labs uses to promote and sell authentic Bored
27 Ape Yacht Club NFTs (BORED APE YACHT CLUB, BAYC, BORED APE, APE, BA YC Logo,
28 BA YC BORED APE YACHT CLUB Logo, and Ape Skull Logo trademarks (the “BAYC

1 Marks”)). They also use the BAYC Marks to promote their coming “Ape Market” NFT
2 marketplace (hosted at apemarket.com), which requires a person to purchase one of the infringing
3 RR/BAYC NFTs to join Ape Market. Moreover, much of this promotion occurs through the same
4 channels, such as Twitter, that Yuga Labs uses to promote its authentic BAYC NFTs. On
5 information and belief, Hickman helped Ripps and Cahen promote RR/BAYC NFTs and Ape
6 Market on social media, furthering sales of the infringing RR/BAYC NFTs. Hickman’s actions
7 are all a deliberate effort to harm Yuga Labs at the expense of consumers by sowing confusion
8 about whether these RR/BAYC NFTs and Ape Market are in some way sponsored, affiliated, or
9 connected to Yuga Labs’ official Bored Ape Yacht Club, in violation of the Lanham Act.

10 5. Additionally, working with other members of the RR/BAYC Team, Hickman
11 developed and coded an “RRBAYC RSVP Contract,” which would allow consumers to “reserve”
12 an RR/BAYC NFT. Hickman also developed the “rrbayc.com” website, which implemented the
13 RRBAYC RSVP Contract’s reservation system. And Hickman developed the Ape Market website
14 on which the RR/BAYC Team planned to sell RR/BAYC NFTs alongside authentic BAYC NFTs.

15 6. Hickman, motivated by the financial windfall of appropriating Yuga Labs’
16 trademarks and the resulting confusion, also actively marketed and promoted the RR/BAYC NFTs.
17 His actions were calculated, intentional, and willful with the stated purpose of causing actual and
18 monetary harm to Yuga Labs, all of which causes real harm to Yuga Labs’ goodwill. Meanwhile,
19 he reaped ill-gotten profit from these sales.

20 7. For these and other reasons, Hickman’s conduct has caused and, unless enjoined,
21 will continue to cause damages and irreparable injury to Yuga Labs with an incalculable loss of
22 goodwill. Accordingly, Yuga Labs seeks injunctive relief and a disgorgement of Hickman’s
23 profits derived from his unlawful conduct.

24 THE PARTIES

25 8. Plaintiff Yuga Labs, Inc., is a corporation duly organized and existing under the
26 laws of the State of Delaware.

27 9. Upon information and belief, Defendant Ryan Hickman is an individual whose
28 primary place of residence is in Henderson, Nevada.

JURISDICTION AND VENUE

10. This Court has personal jurisdiction over Hickman because, on information and belief, his residence is in the State of Nevada and within this judicial district. Likewise, on information and belief, Hickman perpetrates his infringing activities from his Nevada residence.

11. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1338, and 1367. Yuga Labs' claims are, in part, based on violations of the Lanham Act, as amended, 15 U.S.C. §§ 1051, *et seq.*

12. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b). Hickman's primary place of residence is located in this district, and a substantial part of the events and injuries giving rise to the claims set forth herein occurred in this district.

FACTUAL BACKGROUND

YUGA LABS' BUSINESS AND MARKS

13. In early 2021, Yuga Labs created, and developed the smart contract behind, the Bored Ape Yacht Club, which consists of unique collectible works of digital art (each associated with an NFT) when executed on the Ethereum blockchain. Yuga Labs sold licenses for users to mint these BAYC NFTs for approximately 0.08 Ethereum each, which amounts to approximately \$169 to \$236 USD, based on the price of Ethereum at the time. Only 10,000 unique BAYC NFTs were created as part of this collection.

14. Once minted, a Bored Ape NFT confers on its holder certain commercial rights with respect to content featured on the NFT (here, digital art).

THE BORED APE YACHT CLUB'S RECOGNITION

15. Since its launch, Yuga Labs' Bored Ape Yacht Club has generated massive public interest, as reflected in media reports:

- Rolling Stone Magazine published an issue with Bored Ape NFT art on the cover, accompanied by an article entitled "How Four NFT Novices Created a Billion-Dollar Ecosystem of Cartoon Apes." The article hailed BAYC as "internet rock stars" and described their rise to fame and fortune. Samantha Hissong, *How Four NFT Novices Created a Billion-Dollar Ecosystem of*

1 *Cartoon Apes*, ROLLING STONE (Nov. 1, 2021),

2 [https://www.rollingstone.com/culture/culture-news/bayc-bored-ape-yacht-club-](https://www.rollingstone.com/culture/culture-news/bayc-bored-ape-yacht-club-nft-interview-1250461/)
 3 [nft-interview-1250461/](https://www.rollingstone.com/culture/culture-news/bayc-bored-ape-yacht-club-nft-interview-1250461/).

- 4 • CNET hailed BAYC as “the biggest NFT project of [its] kind.” Daniel Van
 5 Boom, *How Bored Ape Yacht Club NFTs Became \$400K Status Symbols*, CNET
 6 (Apr. 28, 2022), [https://www.cnet.com/culture/internet/how-bored-ape-yacht-](https://www.cnet.com/culture/internet/how-bored-ape-yacht-club-nfts-became-400k-status-symbols/)
 7 [club-nfts-became-400k-status-symbols/](https://www.cnet.com/culture/internet/how-bored-ape-yacht-club-nfts-became-400k-status-symbols/).
- 8 • Wired published an article titled: “How Did the Bored Ape Yacht Club Get So
 9 Popular?” Kate Knibbs, *How Did the Bored Ape Yacht Club Get So Popular?*,
 10 WIRED (Feb. 8, 2022), <https://www.wired.com/story/celebrity-nfts/>.
- 11 • The New York Times called the Bored Ape Yacht Club a “widely-hyped series
 12 of digital collectibles” and a “phenomenon.” David Yaffe-Bellany, *Thefts,*
 13 *Fraud and Lawsuits at the World’s Biggest NFT Marketplace*, THE NEW YORK
 14 TIMES (June 6, 2022), [https://www.nytimes.com/2022/06/06/technology/nft-](https://www.nytimes.com/2022/06/06/technology/nft-opensea-theft-fraud.html)
 15 [opensea-theft-fraud.html](https://www.nytimes.com/2022/06/06/technology/nft-opensea-theft-fraud.html).

16 16. The Bored Ape Yacht Club’s popularity is reflected in the value of BAYC NFTs.
 17 During a 2021 auction at Sotheby’s, 101 BAYC NFTs were resold for \$24.4 million. Samantha
 18 Hissong, *How Four NFT Novices Created a Billion-Dollar Ecosystem of Cartoon Apes*, ROLLING
 19 STONE (Nov. 1, 2021), [https://www.rollingstone.com/culture/culture-news/bayc-bored-ape-yacht-](https://www.rollingstone.com/culture/culture-news/bayc-bored-ape-yacht-club-nft-interview-1250461/)
 20 [club-nft-interview-1250461/](https://www.rollingstone.com/culture/culture-news/bayc-bored-ape-yacht-club-nft-interview-1250461/). A Christie’s auction sold an art collection including four BAYC
 21 NFTs for \$12 million. *Id.* Individual BAYC NFTs likewise sell for high prices, including one
 22 that went for \$3.4 million. *Id.* As a result of its success, Yuga Labs was valued at \$4 billion in
 23 March of 2022, and received \$450 million in seed funding. Jacob Kastrenakes, *Bored Ape Yacht*
 24 *Club creator raises \$450 million to build an NFT metaverse*, THE VERGE (Mar. 22, 2022),
 25 [https://www.theverge.com/2022/3/22/22991272/yuga-labs-seed-funding-a16z-bored-ape-yacht-](https://www.theverge.com/2022/3/22/22991272/yuga-labs-seed-funding-a16z-bored-ape-yacht-club-bayc-metaverse-other-side)
 26 [club-bayc-metaverse-other-side](https://www.theverge.com/2022/3/22/22991272/yuga-labs-seed-funding-a16z-bored-ape-yacht-club-bayc-metaverse-other-side).

17. Major brands like Adidas, Universal Music Group, and Arizona Iced Tea have worked with Bored Ape Yacht Club to create entertainment experiences, and in the case of Adidas, virtual and physical clothing.



YUGA LABS' TRADEMARK APPLICATIONS AND COMMON LAW TRADEMARK RIGHTS

18. Yuga Labs has used its BAYC Marks in connection with advertising, marketing, and promoting its products and services nationwide and internationally through multiple platforms, including but not limited to the Bored Ape Yacht Club website; NFT markets such as OpenSea; and social media such as Facebook, Instagram, and Twitter.

19. Yuga Labs has pending trademark applications for registration in BORED APE YACHT CLUB. The applications were filed on May 27, 2021; September 7, 2021; November 15, 2021; November 18, 2021; and March 15, 2022. The applications cover the BORED APE YACHT CLUB mark for “Digital collectibles in the nature of downloadable multimedia file containing digitally-created artwork authenticated by non-fungible tokens (NFTs); digital collectibles in the nature of downloadable image files containing artwork, memes, pictures, and trading cards authenticated by non-fungible tokens (NFTs);” “Online social networking services;” “providing an

1 online marketplace for buyers and sellers of goods and services; providing an online marketplace
2 for buyers and sellers of digital assets, digital tokens, crypto-tokens, utility tokens, non-fungible
3 tokens (NFTs), digital collectibles, crypto-collectibles, cryptocurrencies, digital currencies and
4 virtual currencies; providing an online marketplace for buyers and sellers of digital goods
5 authenticated by non-fungible tokens (NFTs);” “creating an on-line community for registered users
6 for the purpose of buying, selling, trading, and discussing and exchanging information about digital
7 assets, digital tokens, crypto-tokens, utility tokens, non-fungible tokens (NFTs), digital collectibles,
8 crypto-collectibles, cryptocurrencies, digital currencies and virtual currencies;” “downloadable
9 image files containing artwork authenticated by non-fungible tokens (NFTs); downloadable
10 computer software for managing and conducting electronic transactions in the field of non-fungible
11 tokens (NFTs); downloadable image and multimedia files containing digitally-generated artwork
12 authenticated by non-fungible tokens (NFTs) utilizing blockchain technology; downloadable digital
13 art images authenticated by non-fungible tokens (NFTs); downloadable computer software for
14 managing and conducting electronic transactions in the field of non-fungible tokens (NFTs);
15 downloadable image and multimedia files containing digitally-generated artwork authenticated by
16 non-fungible tokens (NFTs) utilizing blockchain technology; downloadable digital art images
17 authenticated by non-fungible tokens (NFTs);” and “Authentication and validation of data in the
18 field of financial and digital transactions authenticated by non-fungible tokens (NFTs) using
19 blockchain technology,” among others.

20 20. Yuga Labs has pending trademark applications for registration in BAYC. The
21 applications were filed on July 19, 2021; November 15, 2021; November 18, 2021; and March 15,
22 2022. The applications cover the BAYC mark for “Digital collectibles in the nature of
23 downloadable multimedia file containing digitally-created artwork authenticated by non-fungible
24 tokens (NFTs); Digital collectibles in the nature of downloadable image files containing artwork,
25 memes, pictures, and trading cards authenticated by non-fungible tokens (NFTs);” “Online social
26 networking services;” “providing an online marketplace for buyers and sellers of goods and
27 services; providing an online marketplace for buyers and sellers of digital assets, digital tokens,
28 crypto-tokens, utility tokens, non-fungible tokens (NFTs), digital collectibles, crypto-collectibles,

1 cryptocurrencies, digital currencies and virtual currencies; providing an online marketplace for
2 buyers and sellers of digital goods authenticated by non-fungible tokens (NFTs);” “creating an on-
3 line community for registered users for the purpose of buying, selling, trading, and discussing and
4 exchanging information about digital assets, digital tokens, crypto-tokens, utility tokens, non-
5 fungible tokens (NFTs), digital collectibles, crypto-collectibles, cryptocurrencies, digital currencies
6 and virtual currencies;” “Authentication and validation of data in the field of financial and digital
7 transactions authenticated by non-fungible tokens (NFTs) using blockchain technology,” among
8 others.

9 21. Yuga Labs has pending trademark applications for registration in BORED APE.
10 The applications were filed on August 16, 2021; November 15, 2021; and November 18, 2021. The
11 applications cover the BORED APE mark for “online social networking services;” “downloadable
12 image files containing artwork authenticated by non-fungible tokens (NFTs); downloadable
13 computer software for managing and conducting electronic transactions in the field of non-fungible
14 tokens (NFTs); downloadable image and multimedia files containing digitally-generated artwork
15 authenticated by non-fungible tokens (NFTs) utilizing blockchain technology; downloadable digital
16 art images authenticated by non-fungible tokens (NFTs); downloadable computer software for
17 managing and conducting electronic transactions in the field of non-fungible tokens (NFTs);
18 downloadable image and multimedia files containing digitally-generated artwork authenticated by
19 non-fungible tokens (NFTs) utilizing blockchain technology; downloadable digital art images
20 authenticated by non-fungible tokens (NFTs);” and “Authentication and validation of data in the
21 field of financial and digital transactions authenticated by non-fungible tokens (NFTs) using
22 blockchain technology,” among others.

23 22. Yuga Labs has pending trademark applications for registration in the BA YC Logo.
24 The applications were filed on May 27, 2021; September 7, 2021; November 15, 2021; and
25 November 18, 2021. The application covers the BA YC Logo mark for “Maintaining and recording
26 ownership of art prints comprised of digital illustrations originating from photographs; Maintaining
27 and recording ownership of downloadable digital illustrations authenticated by nonfungible tokens;
28 Provision of an online marketplace for buyers and sellers of downloadable digital collectibles in the

1 nature of artwork, memes, trading cards, pictures, movie clips, music videos, interviews, books,
 2 newsletters, magazines, music, podcasts, and soundbites authenticated by non-fungible tokens
 3 (NFTs);” “downloadable image files containing artwork authenticated by non-fungible tokens
 4 (NFTs); downloadable computer software for managing and conducting electronic transactions in
 5 the field of non-fungible tokens (NFTs); downloadable image and multimedia files containing
 6 digitally-generated artwork authenticated by non-fungible tokens (NFTs) utilizing blockchain
 7 technology; downloadable digital art images authenticated by non-fungible tokens (NFTs);
 8 downloadable computer software for managing and conducting electronic transactions in the field
 9 of non-fungible tokens (NFTs); downloadable image and multimedia files containing digitally-
 10 generated artwork authenticated by non-fungible tokens (NFTs) utilizing blockchain technology;
 11 downloadable digital art images authenticated by non-fungible tokens (NFTs);” and
 12 “Authentication and validation of data in the field of financial and digital transactions authenticated
 13 by non-fungible tokens (NFTs) using blockchain technology,” among others.

14 23. Yuga Labs has pending trademark applications for registration in the BA YC
 15 BORED APE YACHT CLUB Logo. The applications were filed on May 27, 2021; September 7,
 16 2021; November 15, 2021; and November 18, 2021. The applications cover the BA YC BORED
 17 APE YACHT CLUB Logo mark for “Maintaining and recording ownership of art prints comprised
 18 of digital illustrations originating from photographs; Maintaining and recording ownership of
 19 downloadable digital illustrations authenticated by nonfungible tokens; Provision of an online
 20 marketplace for buyers and sellers of downloadable digital collectibles in the nature of artwork,
 21 memes, trading cards, pictures, movie clips, music videos, interviews, books, newsletters,
 22 magazines, music, podcasts, and soundbites authenticated by non-fungible tokens (NFTs);”
 23 “downloadable image files containing artwork authenticated by non-fungible tokens (NFTs);
 24 downloadable computer software for managing and conducting electronic transactions in the field
 25 of non-fungible tokens (NFTs); downloadable image and multimedia files containing digitally-
 26 generated artwork authenticated by non-fungible tokens (NFTs) utilizing blockchain technology;
 27 downloadable digital art images authenticated by non-fungible tokens (NFTs); downloadable digital
 28 art images authenticated by non-fungible tokens (NFTs); downloadable computer software for

1 managing and conducting electronic transactions in the field of non-fungible tokens (NFTs);
2 downloadable image and multimedia files containing digitally-generated artwork authenticated by
3 non-fungible tokens (NFTs) utilizing blockchain technology; downloadable digital art images
4 authenticated by non-fungible tokens (NFTs);” and “Authentication and validation of data in the
5 field of financial and digital transactions authenticated by non-fungible tokens (NFTs) using
6 blockchain technology,” among others.

7 24. Yuga Labs has pending trademark applications for registration in the Ape Skull
8 Logo. The applications were filed on August 26, 2021; September 7, 2021; November 15, 2021;
9 and November 18, 2021. The applications cover the BAYC mark for “Digital collectibles in the
10 nature of downloadable multimedia file containing digitally-created artwork authenticated by non-
11 fungible tokens (NFTs); Digital collectibles in the nature of downloadable image files containing
12 artwork, memes, pictures, and trading cards authenticated by non-fungible tokens (NFTs);” “Online
13 social networking services;” “downloadable image files containing artwork authenticated by non-
14 fungible tokens (NFTs); downloadable computer software for managing and conducting electronic
15 transactions in the field of non-fungible tokens (NFTs); downloadable image and multimedia files
16 containing digitally-generated artwork authenticated by non-fungible tokens (NFTs) utilizing
17 blockchain technology; downloadable digital art images authenticated by non-fungible tokens
18 (NFTs); downloadable computer software for managing and conducting electronic transactions in
19 the field of non-fungible tokens (NFTs); downloadable image and multimedia files containing
20 digitally-generated artwork authenticated by non-fungible tokens (NFTs) utilizing blockchain
21 technology; downloadable digital art images authenticated by non-fungible tokens (NFTs);” and
22 “Authentication and validation of data in the field of financial and digital transactions authenticated
23 by non-fungible tokens (NFTs) using blockchain technology,” among others.

24 25. Since at least April 2021, Yuga Labs has used its BAYC Marks. They have been
25 used for its logo, website, social media pages, marketing, and in connection with its partnerships,
26 products and services. A true and correct copy of examples of their use are attached hereto as
27 **Exhibit A.**
28

26. As a consequence of the advertising, promotion, and use of the BAYC Marks with Yuga Labs' BAYC NFTs and other products and services, Yuga Labs has developed recognition for its goods and services under the BAYC Marks, and has acquired and enjoys significant goodwill and common law rights for the BAYC Marks.

HICKMAN'S INFRINGEMENT OF THE BAYC MARKS

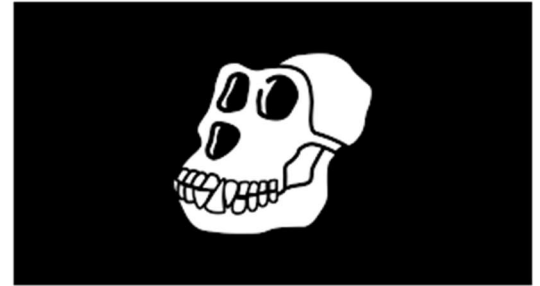
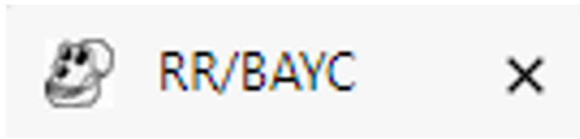
27. Yuga Labs uses the BAYC Marks on a nationwide and international basis to identify its well-known Bored Ape NFT collection. Hickman uses *the very same marks* to scam consumers in promoting his business venture selling the RR/BAYC NFTs, and developing the RRBAYC RSVP Contract and rrbayc.com and Ape Market websites.

28. On information and belief, Hickman was informed that the RR/BAYC NFTs would be confusing to the average consumer and that Ripps' intent was to explicitly mislead consumers by and through the sale of RR/BAYC NFTs. Nonetheless, Hickman continued to explicitly mislead consumers through the promotion, sale, and development of RR/BAYC NFTs and related contract and websites.

A. Infringement via the RRBAYC RSVP smart contract and rrbayc.com website

29. In May 2022, Hickman created the RRBAYC RSVP smart contract and rrbayc.com website to support the business venture. Together, this contract and website allowed users to "reserve" RR/BAYC NFTs and automated the minting process, making it easier for the RR/BAYC Team to place the infringing RR/BAYC NFTs into the stream of commerce.

30. Hickman ratified, implemented, and supported the use of Yuga Labs' marks on this smart contract and website to promote and sell the infringing NFTs as part of the RR/BAYC business venture. The RRBAYC RSVP smart contract created by Hickman uses Yuga Labs' BAYC trademark in the name of the contract ("RRBAYCRSVP"). The rrbayc.com website created by Hickman uses Yuga Labs' BAYC trademark in the title of the page ("RR/BAYC"), in the browser tab for the page ("RR/BAYC"), and in the domain for the page (<https://rrbayc.com/>). The website also used Yuga Labs' Ape Skull Logo mark (right) in the browser tab icon (left [image enlarged to show detail]):



And the website used Yuga’s “Bored Ape Yacht Club”, “BAYC”, and “Ape” trademarks to refer to RR/BAYC NFTs.

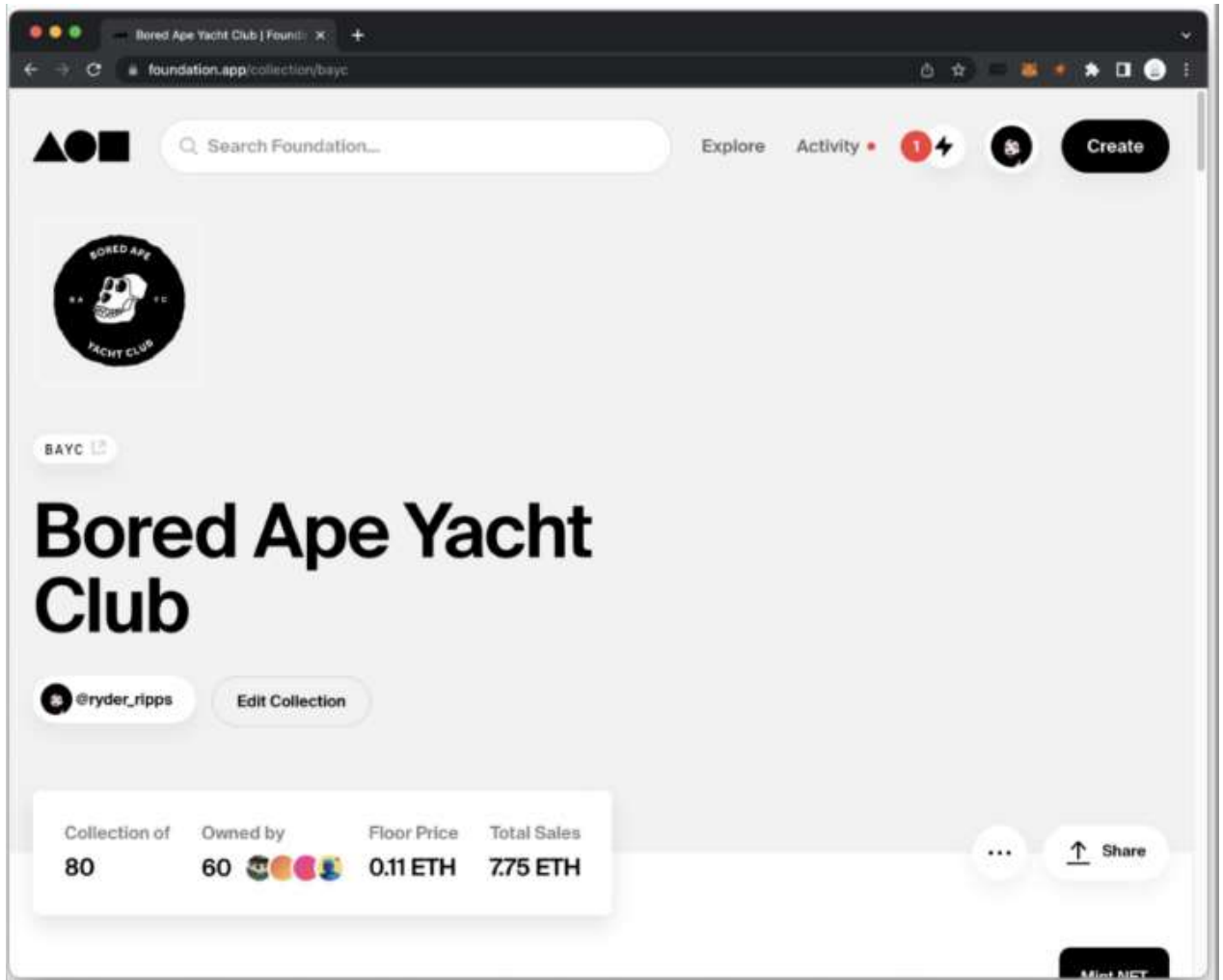
31. The NFTs depicted on the website also contain BAYC Marks. For example, RR/BAYC #362 has the BAYC, BA YC Logo, and the Ape Skull Logo marks on its hat and RR/BAYC #863 has the Ape Skull Logo mark on its shirt. Both of these fake NFTs are identical to their official BAYC counterparts BAYC #362 and BAYC #863. Indeed, on information and belief, this use of identical marks, images, and numbering schemes caused actual confusion, which Hickman was aware of and encouraged. Despite knowing sales of RR/BAYC NFTs through this business venture was a scam, he nonetheless implemented the scam using Yuga Labs’ BAYC Marks.



B. Infringement via NFT marketplaces

32. Hickman also ratified, supported, and implemented the business venture’s sales of RR/BAYC NFTs on NFT marketplaces such as Foundation and OpenSea. These sales pages for the RR/BAYC NFTs were explicitly misleading, using Yuga Labs’ exact same marks to sell the

1 infringing and identical looking NFTs. For example, the Foundation page was replete with uses of
 2 the BAYC Marks:



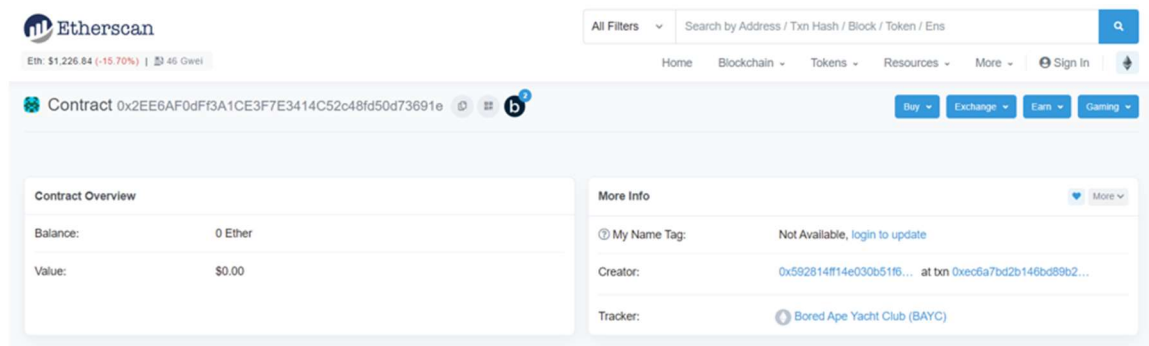
33. Yuga Labs sold authentic BAYC NFTs on many of these very same marketplaces. Indeed, the RR/BAYC NFTs are so similar to Yuga Labs' BAYC NFTs and actually confusing to consumers that OpenSea and other marketplaces repeatedly delisted them in response to complaints that they infringed Yuga Labs' trademarks.

34. Despite having knowledge of these takedowns and the RR/BAYC NFTs' infringing content, Hickman promoted the RR/BAYC NFTs by posting on Twitter that they would "re-list[]" the infringing RR/BAYC NFTs on OpenSea and deploy Ape Market in order to continue selling infringing RR/BAYC NFTs without being delisted and continue to earn profits from fees.

Hickman directly profited (or will if the scam is allowed to continue) from sales of Yuga Labs' marks via these NFT marketplaces, despite his awareness and support of their infringing content.

C. Infringement via Etherscan

35. Likewise, Hickman ratified and supported explicitly misleading uses of Yuga Labs' marks on the Etherscan page for the RR/BAYC collection (<https://etherscan.io/address/0x2EE6AF0dFf3A1CE3F7E3414C52c48fd50d73691e>), which publicly tracks sales and other information for these NFTs. Yuga Labs believes, and therefore alleges, that Ripps stole Yuga Labs' BORED APE YACHT CLUB and BAYC trademarks to misleadingly label the token tracker for these RR/BAYC NFTs as "Bored Ape Yacht Club (BAYC)" (see bottom right corner of image below). Hickman then developed the reservation system to sell RR/BAYC NFTs, and oversaw and controlled their sales, knowing that they bore this misleading label.



36. Token trackers are important for validating the authenticity of an NFT. And when buyers of the RR/BAYC NFTs review the token tracker and smart contract information for the RR/BAYC NFT, they are misled into thinking that these NFTs were officially sold by Yuga Labs. Hickman was aware that the use of BAYC Marks to sell RR/BAYC NFTs was confusing to average consumers and that the token tracker did not dispel that confusion, yet Hickman decided to persist in his development, marketing, and sale of RR/BAYC NFTs to explicitly mislead consumers.

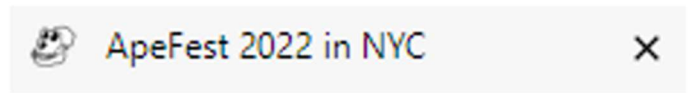
D. Infringement via Ape Market

37. Hickman was also the primary developer and director of Ape Market. Hickman and the RR/BAYC Team sought to establish an NFT Marketplace to further their business venture,

1 attempt to compete with other popular NFT Marketplaces, and help them market and sell the
2 infringing RR/BAYC NFTs for profit.

3 38. Hickman designed Ape Market to use BAYC Marks to profit off of the goodwill of
4 Yuga Labs. He set up Ape Market to require a user to purchase an RR/BAYC NFT to access Ape
5 Market. This was intended to encourage further sales and increase the value of their unsold
6 RR/BAYC NFTs, resulting in greater profit for the business venture. Ape Market was likewise
7 designed to trade RR/BAYC NFTs alongside BAYC NFTs, which use the exact same images and
8 incorporate the same marks. On information and belief, Hickman was informed that the design of
9 Ape Market could be confusing to consumers, yet Hickman made no effort to change the design to
10 prevent consumer confusion. Hickman's objective was to explicitly mislead these consumers on
11 Ape Market.

12 39. The Ape Market website also uses Yuga Labs' Ape Skull Logo mark in the browser
13 tab icon (left), which is nearly identical to the browser tab icon Yuga Labs uses for its ApeFest
14 website (right).



17 On information and belief, Hickman was aware that it was likely confusing to consumers to offer
18 for sale the RR/BAYC NFTs and BAYC NFTs on Ape Market because the two NFT collections
19 were visually identical. And yet, he furthered and ratified the sales of knock-off NFTs and the
20 use of Yuga Labs' BAYC Marks to sell the infringing RR/BAYC NFTs.

21 **E. Infringement on social media**

22 40. Hickman furthered the scam and attempted to reach more consumers by promoting
23 it on social media such as Twitter. For example, on information and belief, Hickman participated
24 in the creation of material to be used to promote Ape Market on Twitter. This promotional
25 material was intentionally designed to look like Yuga Labs' promotional material in order to
26 further confuse consumers into buying RR/BAYC NFTs. On information and belief, he also
27 supported and directed payments to influencers to promote RR/BAYC NFTs in order to increase
28 profits by building sales volume and hype around RR/BAYC NFTs and Ape Market.

1 41. As further promotion, Hickman repeatedly gloated about the success RR/BAYC
2 NFTs had by trading on Yuga Labs BAYC Marks. For example, he advertised on Twitter, that
3 his infringing business venture “flipp[ed]” the real BAYC NFTs in sales rankings on OpenSea.
4 And he bragged about how much money he was making from the business venture because “IP in
5 NFT is myth,” allowing him to buy luxury watches. Yet, as in any industry, intellectual property
6 in the NFT space is not a “myth” and is enforceable to hold scammers like Hickman responsible
7 for their infringing conduct.

8 42. Despite Ripps claiming that his use of the images underlying Yuga Labs’ NFTs
9 and use of Yuga Labs’ marks is art, Hickman has publicly claimed that NFTs are “NOT art.”
10 This contradiction demonstrates that this is nothing more than a flimsy effort to justify his money-
11 making scam.

12 43. Hickman did not distinguish his use of Yuga Labs’ BAYC Marks from the
13 identical look, sound, and commercial impression of his and the RR/BAYC Team’s use of these
14 marks. His use of Yuga Labs’ BAYC Marks to promote and sell RR/BAYC NFTs is likely to
15 cause, and has caused, confusion and has mislead consumers into thinking the RR/BAYC NFTs
16 are in some way sponsored, affiliated, or connected with Yuga Labs’ Bored Ape Yacht Club.
17 Yuga Labs believes, and therefore alleges, that Hickman purposefully, intentionally, and with
18 malice used Yuga Labs’ trademarks to confuse and explicitly mislead users into purchasing
19 RR/BAYC NFTs.

20 44. Hickman, together with Ripps, Cahen, Lehman, and others sold the fake BAYC
21 NFTs to more than 3,000 purchasers. On information and belief, he understood that the counterfeit
22 NFTs had caused substantial harm to Yuga Labs.

23 45. On information and belief, Ripps agreed that Hickman would receive 15% of the
24 sales of RR/BAYC NFTs and a portion of the sales on Ape Market, all in exchange for his
25 contribution in developing the RR BAYC RSVP Contract, www.rrbayc.com, www.apemarket.com,
26 and marketing and promoting the same and the RR/BAYC NFTs.

**FIRST CAUSE OF ACTION
FALSE DESIGNATION OF ORIGIN
(15 U.S.C. § 1125(A))**

46. Yuga Labs incorporates all paragraphs above by reference.

47. Yuga Labs is the owner of common law rights in the BAYC Marks that precede Hickman's first use of these marks.

48. Hickman has not obtained a license or permission from Yuga Labs to use the BAYC Marks.

49. Hickman's unauthorized use of the BAYC Marks falsely suggests that he and the products and services he promotes with the BAYC Marks are connected with, sponsored by, affiliated with, or related to Yuga Labs.

50. Hickman's unauthorized use of the BAYC Marks, unauthorized promotion and sale of the RR/BAYC NFTs, development and promotion of Ape Market, rrbayc.com, and the RRBAYC RSVP contract, amongst any other product or service sold with the BAYC Marks, was willful and intentional and constitutes (a) false designation of origin, (b) false or misleading description, and (c) false or misleading representation that products originate from or are authorized by Yuga Labs, all in violation of 15 U.S.C. § 1125(a)(1)(A).

51. As a direct and proximate result of Hickman's conduct, Yuga Labs has suffered and will continue to suffer damages in an amount to be determined at trial.

52. Yuga Labs has been, is now, and will be irreparably injured and damaged by Hickman's aforementioned acts, and unless enjoined by the Court, Yuga Labs will suffer further harm to its name, reputation and goodwill. This harm constitutes an injury for which Yuga Labs has no adequate remedy at law.

**SECOND CAUSE OF ACTION
CYBERSQUATTING
(15 U.S.C. § 1125(D))**

53. Yuga Labs incorporates all paragraphs above by reference.

54. On information and belief, Hickman manages, controls, and directs the promotion and sale of the infringing and misleading RR/BAYC NFTs, and the intentional and bad faith use

1 of the infringing domains, including by supporting, aiding, and abetting the RR/BAYC Team.

2 55. Yuga Labs is the owner of common law rights in BAYC and APE that precede
3 Hickman's first use of these marks.

4 56. Hickman has not obtained a license or permission from Yuga Labs to use the
5 BAYC and APE marks.

6 57. Hickman used the domain names <https://rrbayc.com/> and <https://apemarket.com/>
7 ("Domain Names"), which are confusingly similar to Yuga Labs' BAYC and APE marks.

8 58. Hickman used the Domain Names with a bad faith intent to profit from their
9 confusing similarity to Plaintiff's BAYC and APE marks. Among other things, upon information
10 and belief:

- 11 (a) Hickman used the Domain Names, despite knowing that he had no rights in
12 the BAYC or APE marks.
- 13 (b) Hickman made no bona fide, non-infringing, commercial use or fair
14 non-commercial use of the Domain Names.
- 15 (c) Hickman intended to divert consumers looking for Plaintiff's goods/services
16 online to the websites bearing the Domain Names by exploiting the
17 confusing similarity of the Domain Names and the BAYC and APE marks
18 for their commercial gain and to tarnish or disparage the BAYC and APE
19 marks.
- 20 (d) Hickman used the Domain Names in bad faith as described herein.

21 59. As a direct and proximate result of Hickman's conduct, Yuga Labs has suffered and
22 will continue to suffer damages in an amount to be determined at trial.

23 60. Hickman's conduct is directly and proximately causing substantial, immediate, and
24 irreparable harm and injury to Yuga Labs, and to its goodwill and reputation, and will continue to
25 damage Yuga Labs unless enjoined by this court. Yuga Labs has no adequate remedy at law.

26 61. Yuga Labs is entitled to injunctive relief pursuant to 15 U.S.C. §§ 1116 and
27 1125(d)(1)(C).
28

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Yuga Labs prays for relief as follows:

3 1. Entry of an order and judgment requiring that Hickman, and his agents,
4 employees, attorneys, or other persons who are in active concert or participation with Hickman,
5 his agents, or attorneys to be permanently enjoined and restrained from (a) using in any manner
6 the BAYC Marks, or any name, mark or domain name that wholly incorporates the BAYC Marks
7 or is confusingly similar to or a colorable imitation of these marks; and (b) doing any act or thing
8 calculated or likely to cause confusion or mistake in the minds of members of the public, or
9 prospective customers of Yuga Labs' products or services, as to the source of the products or
10 services offered for sale, distributed, or sold, or likely to deceive members of the public, or
11 prospective customers, into believing that there is some connection between him and Yuga Labs;

12 2. A judgment ordering Hickman, pursuant to 15 U.S.C. § 1116(a), to file with this
13 Court and serve upon Yuga Labs within thirty (30) days after entry of the injunction, a report in
14 writing under oath setting forth in detail the manner and form in which Hickman has complied
15 with the injunction and ceased all offering of products or services under the BAYC Marks as set
16 forth above;

17 3. A judgment ordering Hickman, pursuant to 15 U.S.C. § 1118, to deliver up for
18 destruction, or to show proof of said destruction or sufficient modification to eliminate the
19 infringing matter, all articles, packages, wrappers, products, displays, labels, signs, vehicle
20 displays or signs, circulars, kits, packaging, letterhead, business cards, promotional items, clothing,
21 literature, sales aids, receptacles, servers, social media accounts, or other matter in the possession,
22 custody, or under the control of Hickman bearing the BAYC Marks in any manner, or any mark
23 that is confusingly similar to or a colorable imitation of this mark;

24 4. A judgment ordering Hickman to withdraw any applications Hickman filed
25 anywhere for the BAYC Marks;

26 5. A judgment in the amount of Hickman's profits, Yuga Labs' reasonable attorneys'
27 fees and costs of suit, and pre-judgment interest pursuant to 15 U.S.C. § 1117;

28 6. A judgment for enhanced damages under 15 U.S.C. § 1117 as appropriate; and

1 7. Any and all equitable relief that may be available to Yuga Labs, including without
2 limitation restitution, disgorgement, and the imposition of a constructive trust.

3 8. A judgment granting Yuga Labs such other and further relief as the Court deems
4 just and proper.

5 Dated: January 20, 2023

FENNEMORE CRAIG, P.C.

6
7 By: /s/ John D. Tennert

John D. Tennert, Esq.

8 Attorneys for Plaintiff

9 Yuga Labs, Inc.

10 **JURY DEMAND**

11 Plaintiff Yuga Labs, Inc. hereby requests a trial by jury.

12
13 Dated: January 20, 2023

FENNEMORE CRAIG, P.C.

14
15 By: /s/ John D. Tennert

John D. Tennert, Esq.

16 Attorneys for Plaintiff

17 Yuga Labs, Inc.
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INDEX OF EXHIBITS

Exhibit No.	Description
A	Examples of Use of BAYC Marks